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RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 95-207

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

1. Statutory Authority

a. Section WGC 45.04, relating to Class B raffle licenses, contains references to “calendars.” Given the definitions of “calendar” and “calendar raffle” in s. 563.03 (4e) and (4m), Stats., and s. WGC 44.02 and the definitions of Class A and Class B raffle licenses in s. 563.92 (1m), Stats., is it appropriate to assume that Class B licenses will include calendar raffles? More importantly, it is arguable that the absence of reference to calendars in s. 563.935, Stats., and the inclusion of reference to calendars in s. 563.93, Stats., is evidence of legislative intent that Class B licenses are not to apply to calendar raffles.

b. In light of the partial veto of s. 563.935 (6) in 1995 Wisconsin Act 27, the authority for much of s. WGC 45.04 (6) (a) is questionable. To the extent that the provisions are the same as, or carry out the intent of, the vetoed language, it is unlikely that there is statutory authority to promulgate them. The Governor’s veto message on this partial veto states: “I am...vetoing the requirement that the ticket purchaser must be present to win so that a purchaser may claim the prize if he or she is not present.” [*Journal of the Assembly*, p. 409, July 27, 1995.] A review of s. WGC 45.04 (6) (a) is in order.

2. Form, Style and Placement in Administrative Code

a. Section WGC 45.01 is unnecessary. Most of the remainder of the rule is unnecessary as well as it merely replicates existing statutory language. The purpose of administrative rules is to supplement, implement or interpret legislation; most of the rule does not accomplish this and,

therefore, could be deleted. The only provisions of the rule that attempt to accomplish the purpose of an administrative rule are the provisions that are the subject of comment under “statutory authority,” above.

b. The proper format for the rule is to create ch. WGC 45, using one treatment section, providing a chapter title and eliminating all of the underscoring of text. [See, generally, Part 1, Manual.]

c. It appears that s. WGC 45.04 (6) (intro.) may be deleted; consequently, “(a)” should be deleted.

5. Clarity, Grammar, Punctuation and Use of Plain Language

The language in s. WGC 45.04 (6) (a) is awkward and, in some instances, ungrammatical. Although the language should be removed from the rule (see comment under “statutory authority”), if it is retained, the provision be redrafted along the following lines:

If the purchaser of a raffle ticket for a raffle conducted under a Class B license leaves before the raffle drawing, the purchaser may give the ticket to an individual who will be in attendance at the time of the drawing to claim the prize on the purchaser’s behalf or may present the ticket for a refund to a designated representative of the organization conducting the raffle. If a ticket is presented for refund, the ticket shall immediately be voided. The individual designated to issue refunds on behalf of the organization conducting the raffle shall be identified at the beginning of the event in which the raffle is conducted [or, instead, “drawing is held”?]. If the purchaser of a ticket leaves before the drawing and does not request a refund or give the ticket to another individual to claim the prize on his or her behalf, the purchaser surrenders all rights to claim the prize or receive a refund. The organization conducting the raffle or the gaming commission is not liable in connection with any disputes that arise concerning the ownership of any ticket.

The commission may wish to review the last sentence to ensure that it states the commission’s intent.